



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/434,619	11/05/1999	ANDREW W. SCHERPBIER	246/173	4173

7590

12/04/2002

JOHN M. BENASSI
BROBECK PHILEGER & HARRISON, LLP
12390 EL CAMINO REAL
SAN DIEGO, CA 92113

EXAMINER

LEVITAN, DMITRY

ART UNIT

PAPER NUMBER

2662

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/434,919

Applicant(s)

MAYER, ROBERT ROSARIO

Examiner

Dmitry Levitan

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,14,15,18,19,21,27,28,32,34,35,38,40,42-44,46,47,50,51,59,64 and 65 is/are rejected.
- 7) ☒ Claim(s) 3,4,28-31,36,37,45,52-57 and 61-63 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,7,8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2662

Specification

1. The disclosure is objected to because of the following informalities:
 - ✓ a. Typo, two first lines on page 2 and two last lines on page 1 are identical;
 - ✓ b. Typo on page ³5 line 20, in tact instead of intact
 - ✓ c. Typo on page 11 line 7, server 108 instead of server 112

Appropriate correction is required.

- ✓ 2. Abbreviations or acronyms GSM, HTTP, PCMCIA are cited throughout the specification without explanation. Applicant should provide a full explanation for the acronyms at least their first occurrence in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 5-8, 14, 15, 18, 19, 21, 32, 34, 38, 40, 42, 46, 47, 50, 51, 59, 64, 65 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not provide sufficient details to enable a skilled in the art to make and use the invention because it does not adequately describe the following:

Regarding claims ~~5, 6, 18, 19, 38, 46, 47, 51, 64, 65~~ the specification does not describe data structure for saving and observing the voice buffers;

- ✓ Regarding claim 8, 21, 32, 40, 59, the specification does not describe a circular list.

Art Unit: 2662

- ✓ Regarding claim 14, 34, 42, 50, the specification does not describe maintaining, first and second recording of a small portion of audio data associated with the periods of silence;
- ✓ Regarding claim 15, the specification does not describe the transmitting step whenever the monitoring step detects a period of silence longer than the small portions;

The specification does not provide enough details about the structure and operation of the elements associated with the above identified claimed features to enable one skilled in the art to make and use the invention without undue experimentation.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 27, 43, 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (US 5,978,756).

Walker teaches a method, apparatus and computer program (col. 12 lines 59-67 and col 13 lines 1-9) for transmitting voice from a presenting computer (one of PC based conferencing systems 10 on Fig. 1 and col. 2 lines 21-39) to one or more client computers (other conferencing system 10 on Fig. 1) over a computer network (network 11 on Fig. 1 and col. 2 lines 28-33), comprising the steps of:

Art Unit: 2662

Inputting audio data into presenting computer (audio signals and analog-to-digital converter 102 on Fig. 2 and col. 2 lines 47-51);

Monitoring the audio data to distinguish between periods of sound and period of silence (metric generator 402 and transition detector 404 on Fig. 4 and col. 3 lines 59-67, col. 4 lines 1-13);

Storing the audio data associated with periods of sound (memory device 112 on Fig. 2 and col. 2 lines 51-61, col. 3 lines 1-8 and col. 4 lines 60-67,); and

Transmitting the audio data from said storing step to the client computers (transmitter 118 on Fig. 2 and col. 3 lines 3-8, col. 4 lines 60-65).

Regarding claim 27, Walker teaches a data store (memory device 112 on Fig. 2), a microphone (microphone 14 on Fig. 1) and recorder (processor 116 on Fig. 2, comprising metric generator 402 and transition detector 404 on Fig. 4).

Regarding claim 44, Walker teaches a computer program setting a threshold for distinguishing between period of sound and period of silence (col. 6 lines 19-67).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Katseff (US 6,301,258).

Art Unit: 2662

Walker teaches all claims 1 and 27 limitations.

Walker does not teach storing the audio data in a buffer having a predetermined size and transmitting whenever a period of silence is detected or the buffer is full.

Katseff teaches storing the audio data in a buffer having a predetermined size and transmitting whenever a period of silence is detected or the buffer is full (col. 3 lines 31-44 and col. 5 lines 16-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add storing the audio data in a buffer having a predetermined size and transmitting whenever a period of silence is detected or the buffer is full of Katseff to the system of Walker to improve the system anti-jitter performance.

8. Claims 35, 51 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Glaser (US 6,072,463).

Walker teaches all claims 35, 51 and 60 limitations as in claim 1.

Walker does not teach a server coupled to the network for storing audio data received and transmitting it to other computers.

Glaser teaches a server (host/server 18 on Fig. 1 and col. 3 lines 23-29, lines 53-55) coupled to the network (system 10 on Fig. 1 and col. 3 lines 23-29) for storing audio data received (inherently in the server memory because workstations transmit and receive voice messages through the server. Col. 3 lines 53-65) and transmitting it to other computers (col. 4 lines 33-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a server coupled to the network for storing audio data received and transmitting it to other computers of Glaser to the system of Walker to improve the system reliability.

Allowable Subject Matter

9. Claims 3, 4, 28-31, 36-37, 45, 52-57, 61-63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kudo	5,148,429	Voice data transmission system and method.
Delargy	6,029,127	Method and apparatus for compressing audio signals.
Supplee	6,381,568	Method of transmitting speech using discontinuous transmission and comfort noise.
Hamalainen	6,477,176	Simultaneous transmission of speech and data on a mobile communication system.
Li	5,617,423	Voice over data modem with selectable voice compression.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Levitan whose telephone number is 703-305-4384. The examiner can normally be reached on 8:30 to 4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone numbers for the

Art Unit: 2662

organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

Dmitry Levitan
Patent examiner.
December 2, 2002



HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600